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In re Application of	:	
PLESTENJAK, Joze	:	
Application No.: 09/554,032	:	DECISION ON PETITION
PCT No.: PCT/SI98/00008	:	UNDER 37 CFR 1.181
Int. Filing Date: 30 March 1998	:	
Priority Date: 04 November 1997	:	
Attorney Docket No.: 204,509	:	
For: A DRYING DEVICE	:	

This is a decision on applicant's "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)" which is being treated as a Petition to Withdraw a Holding of Abandonment under 37 CFR 1.181, filed in the Patent and Trademark Office (PTO) on 01 August 2002.

BACKGROUND

On 01 December 2000, applicants filed international application no. PCT/SI98/00008 which claimed a priority date of 04 November 1997 and designated the United States. A Demand was filed with the International Preliminary Examination Authority prior to the 19th month from the earliest claimed priority date. As a result, the deadline for payment of the basic national fee was to expire 30 months from the priority date, or at midnight on 04 May 2000.

On 04 May 2000, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee; first preliminary amendment; and an unsigned declaration.

On 19 June 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENT UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventor and the \$130.00 surcharge for filing after the thirty-month period was required. The notification set a ONE(1) MONTH period for response.

On 12 July 2002, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a response to the Notification of Missing Requirements mailed 19 June 2000 within the time period set therein.

On 01 August 2002, applicant filed the present petition. Applicant states in the present petition, "that the Notification of Missing Requirements and Notification of a Defective Oath or Declaration forms relating to this application were not received by this firm," therefore, petitioner statements will be treated as a petition to withdraw holding of abandonment under 37 CFR 1.181.

DISCUSSION

With regards to applicant's request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Concerning item (2) above, applicant has not provided a statement attesting that a search of the file jacket and docket records indicates that the papers were not received.

With regard to item (3) above, applicant has not provided copies of the docket record where the notification mailed 19 June 2000 would have been entered had it been received or referenced such copies in the statement by practitioner. Specifically, applicant must provide a copy of counsel's docket records for 19 July 2000 (ie, the date on which the response was due) showing all applications for which a response was due on that date.

Thus, applicants have not provided the proper showing necessary to withdraw the holding of abandonment and the petition may not be properly granted.

CONCLUSION

The petition under 37 CFR 1.181 is DISMISSED without prejudice and the application remains **ABANDONED**.

The \$55 petition fee, submitted on 01 August 2002, has been refunded to Deposit Account no. 01-0035.

If reconsideration on the merits of this petition is desired, an appropriate response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.

A handwritten signature in black ink, appearing to read "Anthony Smith", with a long horizontal stroke extending to the right.

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